

APPEAL NO. 022170  
FILED OCTOBER 3, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). Following a contested case hearing held on July 31, 2002, the hearing officer determined that the respondent's (claimant) compensable injury to her low back, sustained on \_\_\_\_\_, extends to and includes a herniated disc at the L4-5 intervertebral level and that she had disability from December 7, 2001, through March 17, 2002. The appellant (carrier) has filed an appeal challenging the sufficiency of the evidence to connect the herniated disc at the L4-5 level to the sprain/strain injury it accepted. The carrier also appeals the disability determination because it is based upon the outcome of the extent-of-injury issue. The claimant's response urges affirmance.

DECISION

Affirmed.

The claimant testified that she injured her low back on \_\_\_\_\_, while moving a classroom TV and VCR set on a cart at the middle school where she taught; that an MRI in February 2001, revealed a disc extrusion at the L4-5 level; that she was treated conservatively and continued to work; that in June 2001, her low back pain increased significantly and she began to have pain radiating around her left hip and down her left leg; that in August 2001, another MRI revealed a herniated disc at the L4-5 level; that in December 2001, she underwent lumbar spine fusion surgery at the L4-5 level; and that she thereafter improved and was able to return to work on March 18, 2002. The carrier accepted a lumbar sprain/strain injury and contends that the claimant's evidence fails to prove that the increase in symptoms in July 2001 and the herniated disc revealed in an MRI in August 2001 were a part of the original soft tissue injury. The carrier contends that the reports of the surgeon and another doctor tending to relate the herniated disc to the original injury are not credible in that they are based on an inaccurate history of the injury and fail to sufficiently explain the nexus between the accepted soft-tissue injury and the herniated disc, particularly given the time lapse involved and her history of preexisting back problems.

The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). The Appeals Panel, an appellate reviewing tribunal, will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). The hearing officer could reasonably infer from all the evidence that the claimant's lumbar spine injury sustained

on \_\_\_\_\_, deteriorated and progressed to the herniated disc for which she underwent surgery.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **NORTH AMERICAN SPECIALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**C T CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Philip F. O'Neill  
Appeals Judge

CONCUR:

\_\_\_\_\_  
Judy L. S. Barnes  
Appeals Judge

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Michael B. McShane  
Appeals Judge